

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

JERAL TIDWELL,)	
)	
Plaintiff,)	
)	
vs.)	4:11-cv-00137-RLY-TAB
)	
RAW INTERNATIONAL, LLC;)	
VSJ, LTD.;)	
LLOYD IP LIMITED;)	
LLOYD LIFESTYLE LIMITED,)	
)	
Defendants.)	

ENTRY ON DAMAGES

Plaintiff, Jeral Tidwell, filed a Complaint, once amended, alleging that Defendants infringed Plaintiff's registered copyright in his "Ink Alchemy" work when they copied and incorporated the same into their "Dark Angel" motorcycle helmets ("Accused Work"). On December 9, 2013, the Clerk issued an Entry of Default for failing to file an Answer or to otherwise respond. On January 21, 2014, the court granted Plaintiff's Motion for Default Judgment against all Defendants named in the Amended Complaint pursuant to Rule 55(b) of the Federal Rules of Civil Procedure, and reserved the issue of damages for a hearing set for August 13, 2014. Despite being given notice, the Defendants did not appear at the hearing. The court subsequently ordered Plaintiff to submit an affidavit in support of damages. *See Wehrs v. Wells*, 688 F.3d 886, 892 (7th Cir. 2012) (stating that upon default, the well-pleaded allegations of the complaint

relating to liability are taken as true, but damages must be proven unless they are liquidated or capable of calculation).

Plaintiff seeks statutory damages for willful infringement pursuant to 17 U.S.C. § 504(c)(2) in the amount of \$150,000 and an award of costs and attorney's fees pursuant to 17 U.S.C. § 505 in the amount of \$21,617.45. "Courts commonly find statutory damages appropriate in default judgment cases because the information needed to prove actual damages is within the infringer's control and is not disclosed." *Deckers Outdoor Corp. v. Doe*, 2011 WL 4929036, at *4 (N.D. Ill. Oct. 14, 2011) (citing *Microsoft Corp. v. McGee*, 490 F. Supp. 2d 874, 882 (S.D. Ohio 2007)). Given the Defendants' conduct as set forth in the Affidavit in Support of Default Judgment, the court finds statutory damages are appropriate. The court further finds that, based upon the exhibits attached to the Affidavit, Plaintiff is entitled to costs and attorney's fees in the amount of \$21,617.45. In conclusion, the court **ORDERS** Defendants to pay Plaintiff statutory damages in the amount of \$150,000.00; and pay Plaintiff's reasonable attorney's fees and costs in the amount of \$21,617.45.

SO ORDERED this 29th day of October 2014.



RICHARD L. YOUNG, CHIEF JUDGE
United States District Court
Southern District of Indiana

Distributed Electronically to Registered Counsel of Record.

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